IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.22560 of 2007

1. SHANKAR SINGH @ SHIV SHANKAR SINGH, son of Late Baleshwar Singh, R/o village – Itaur Kumhaila, P.s. Charpokhari, District – Bhojpur
2. Birendra Kumar, S/o Ram Chandra Singh, R/o Shri Dev Nursing Home, Manaini Bazar, P.S. Charpokhari, District – Bhojpur

….. petitioners

Versus

1. THE STATE OF BIHAR
2. Sheela Devi, w/o Kapildeo Singh, R/o village – Daridih, P.s. Sikrahata, District – Bhojpur.

….. Opposite Parties

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3 1.10.2008 Heard Sri Akhileshwar Prasad Singh, the learned counsel for the petitioners, Sri Suraj Bansh Roy, the learned counsel for O.P. 2 and Sri Jharkhandi Upadhaya, the learned A.P.P. for the State.

The petitioners are aggrieved by and have prayed for quashing of order dated 9.9.2005 passed by Sri R.K.Prasad, Judicial Magistrate, 1st Class, Ara, in Complaint Case No. 722 C of 2005, whereby processes have been ordered to be issued against the petitioners to face trial for offences punishable under section 420/34 I.P.C.

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The allegation against the petitioners is of there having advised the complainant to take her husband, who was suffering serious ailment, to a nursing home at Manaini and get him operated.

It has been submitted on behalf of the petitioners that they had only facilitated the approach of the complainant to the nursing home and they were in no way responsible either for the operation or the taking of the money by the hospital authorities and for the same no offence under section 420 I.P.C. can be said to have been made out against the petitioners.

The learned counsel for O.P. No. 2 sought submit that the petitioners had cheated her by means of taking her and her husband to Manaini nursing home when better facilities were available in nearby areas.

For the reasons stated above and from the allegation made in the complaint petition no offence under section 420 I.P.C. can be said to have been made out against the petitioners.

Accordingly the order taking cognizance, so far as the petitioners are concerned, is hereby quashed and the application is allowed.

Spd/- **(Abhijit Sinha, J.)**

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